

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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IMHOTEP H'SHAKA, f/k/a COREY HEATH,

Plaintiff,

-against-

No. 9:03-CV-937  
(LEK/RFT)

C. DROWN, Commissioner's Hearing Officer;  
R. MINOGUE, Captain; J. CAREY, Captain;  
W. HUGHES, Correction Officer; L. DUGUETTE,  
Sergeant; R. GLASSCOCK, Correction Officer;  
J. MANOR, Correction Officer; G.S. GOORD,  
Commissioner; J. MITCHELL, Nurse Administrator;  
T. EAGEN, Director of C.O.R.C.; A. BRANCH,  
Registered Dietician; D. ARTUS, First Deputy  
Superintendent; D. SENKOWSKI, Superintendent;  
C. BRUCE, Correction Officer; R. WITKIEWICZ,  
Maintenance Supervisor 3; D. LUCIA, Sergeant;  
J. MCCLOUD, Food Service Administrator; K. LEE,  
Doctor; S. MILLER, Nurse Practitioner; D. BUSHEY,  
Correction Officer; and M. GILLEN, Nurse,

Defendants,

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on March 6, 2007, by the Honorable Randolph F. Treece, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 109).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance

with L.R. 72.1. Pursuant to District policy on prisoner filing, the Plaintiff timely filed an objection to the Report-Recommendation on March 29, 2007. Objection (Dkt. No. 110).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id. This Court has considered Plaintiff’s objection and undertaken a de novo review of the record. This Court has determined that the Report-Recommendation should be approved for the reasons stated therein.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 109) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

**ORDERED**, that Defendants’ Motion for summary judgment (Dkt. No. 97) is **GRANTED**; and it is further

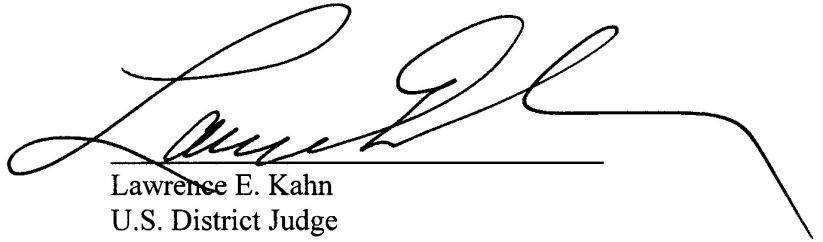
**ORDERED**, that the Complaint (Dkt. No. 1) is **DISMISSED** as to Defendants Mitchell, Senkowski, and Bruce in accordance with 28 U.S.C. § 1915 (e)(2)(B)(ii) as failing to state any cognizable claim; and it is further

**ORDERED**, that the Plaintiff’s Motion to strike affidavits (Dkt. No. 105) is **DENIED**; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: March 30, 2007  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge